



## *CITY OF PLEASANT HILL*

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### **MAJOR VARIANCE**

#### **Application Guide**

#### **WHAT IS A MAJOR VARIANCE?**

Each zoning district description in the city's Zoning Ordinance includes various standards regarding building setbacks from property lines, building heights, lot coverage, off street parking and other physical characteristics of development. There are occasions when the strict application of certain standards may be inappropriate because of special circumstances regarding the property. The variance procedure is intended to allow variations zoning ordinance standards to be considered in cases where special or extraordinary physical circumstances occur at the property which cause the strict application of zoning regulations to deprive the property of privileges enjoyed by other properties in the vicinity under the same zoning classification. A variance cannot grant a special privilege and must be consistent with the intent and purpose of the zone district in which the property is located.

The purpose of a variance is not to permit a different land use than is normally permitted in the applicable zoning district. Rather, the intent is to provide for discretion and flexibility where the strict interpretation of the zoning ordinance would result in a practical difficulty or unnecessary physical hardship in carrying out the spirit and purpose of the ordinance. Variances within single-family residential zoning districts are considered a minor variance and should be referenced in a separate application guide on file with the Planning Division.

Inconvenience and financial considerations are not grounds for granting a variance. Since a variance may only be approved if specific findings can be made with respect to the property and the proposed project, you should consider redesigning the project to meet all zoning standards before submitting an application for a variance.

#### **WHAT ARE THE SPECIFIC REVIEW CRITERIA FOR A MAJOR VARIANCE?**

The Zoning Ordinance requires the City to make specific findings on three issues concerning a variance. Positive findings must be made with respect to the following:

1. The variance is based on the existence of special circumstances applicable to the property, including size, shape, topography, location or surroundings, such that the strict application of the zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification;

2. The variance does not constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and
3. The variance substantially meets the intent and purpose of the zoning district in which the property is located.

## **WHAT ARE THE STEPS?**

**Step 1 Preliminary Review** - Prior to submittal of a formal application, discuss the preliminary proposal with staff. The staff can, if requested, respond back in writing regarding the project conformity with the Zoning Ordinance and General Plan, environmental and neighborhood concerns which may be involved, applicable site planning, building design, landscaping, application fee requirements, and other criteria.

**Step 2 Filing the Application** - Application for a major variance should be made on the Planning Division's Application for Development Review form. The application form must be accompanied by the additional supporting materials specified by the Planning Division, including plans, drawings, and other project description information necessary to permit adequate review of the proposed action. A filing fee will be required for each Major Variance application in the amount set by the City Council.

A Planning Division staff member will be assigned to review the application materials for completeness and to prepare a staff report to the Planning Commission. Additional information may be required as staff review of the project progresses.

**Step 3 Environmental Review** – There is a chance that major variances will require preparation of an initial study to determine if a negative declaration or an Environmental Impact Report (EIR) must be prepared. After submittal of a completed Environmental Information Questionnaire by the applicant, an Initial Study may be completed by the Planning Division which contains a preliminary evaluation of project relationships to the General Plan and its potential for significant adverse environmental effects. If the Initial Study indicates no potential for significant impact, a Negative Declaration (a brief statement describing why an Environmental Impact Report is not required) will be recommended for Planning Commission approval. If, on the other hand, the Initial Study indicates that significant adverse environmental effects may occur, preparation of focused studies or an EIR may be required for Planning Commission review and certification.

**Step 3 Planning Commission Review** - The Planning Commission is required to hold at least one public hearing on the major variance application. At least 10 days prior to the hearing, a notice will be mailed to all property owners and residents within 300 feet of the subject property.

A Planning Division staff member will prepare a staff report that includes: (1) a description of the proposal; (2) a summary of its relationship to relevant General Plan and Zoning Ordinance provisions, as well as its environmental, land use, traffic, and other implications; and (3) related staff recommendations with respect to project approval or denial. A copy of this report will be sent to the applicant during the week preceding the Planning Commission hearing. Copies will also be available for public review at the Planning Division.

At the public hearing the staff will present its report and recommendations. Testimony from the applicant and other interested persons will also be permitted. The Planning Commission may then close the public hearing and make a decision to approve, conditionally approve, or deny the request; or may postpone the decision; or may continue the public hearing to a later date so that more information can be provided. After a Planning Commission decision is made, that decision will become final unless an appeal is filed as described below.

**Step 4 Architectural Review** – Some major variances are also subject to the City's site plan and architectural review requirements. The Architectural Review Commission process has its own application guide that can be obtained from the Planning Division. Applicants are encouraged to apply for all approvals at the time of their original application to allow concurrent processing.

**Step 5 Building Permit Issuance** – After all appeal periods have lapsed (10 days after the date of the action/approval letter) and all application approval requirements and related ordinances have been complied with, the City Building Official may issue Building Permits. The Building Official will then work to ensure that the project is completed in compliance with all permits, approved plans and related conditions.

**Step 6 Business License** - When the Planning Commission approves a variance application for a new commercial business, the permittee should wait 10 calendar days after the action/approval letter date to apply for a Business License until the appeal period for the variance has lapsed. If an appeal has not been filed, then the permittee should apply and pay the necessary fee to the Finance Department for a Business License.

## **WHAT MUST BE SUBMITTED?**

All submittal information required in the General Submittal Requirements Checklist shall be presented including the Application for Development Review form and related fees, to the Planning Division before the application can be accepted as complete. A letter will be sent to the applicant within 30 days indicating whether the application is complete or incomplete (with reasons), along with the name of the planner processing the application.

## **MAY A DECISION BE APPEALED?**

You or anyone else who is dissatisfied with the decision of the Planning Commission may appeal that decision to the City Council. To appeal, a written statement and filing fee must be filed with the Planning Division within 10 days after the mailing of the notice of decision. A public hearing will then be set before the City Council to consider the appeal. If no appeal to a decision is filed within the appeal period, the decision will be final.

## **WHEN DOES THE PLANNING COMMISSION MEET?**

The Planning Commission holds Public Hearings on the second and fourth Tuesday of every month. These meetings commence at 7:30 p.m. and are held in the Council Chambers of the City Hall.

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